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EXAMINER
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THOMPSON, JAMES A

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2625

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/02/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 09/803,441	Applicant(s) LEHMEIER ET AL	
	Examiner James A. Thompson	Art Unit 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-14, 18-20, 22-24, 26-29 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Response to Arguments***

1. Applicant's arguments filed 13 November 2006 have been fully considered but they are not persuasive.

**Regarding Applicant's response to rejection under 35 USC §101:** Claims 26-27 still do not fully conform to 35 USC §101. The "program code" recited in claim 26 is not necessarily computer program code. Further, said program code is not necessarily encoded, embodied, or stored on the recited computer-readable medium, but merely "contained" on said computer readable medium. Computer program code needs to be encoded, embodied or stored on a computer readable medium in order to permit the computer program code's functionality to be realized.

**Regarding Applicant's response to rejection of claim 1 under 35 USC §103(a):** Examiner maintains that Applicant is attempting a piecemeal analysis of the Kohler (USPN 6,618,499) and Knight (USPN 6,344,853) references since Applicant does not properly address how the two references have been brought together by combination. Furthermore, Applicant appears to unduly focus on the fact that Knight requires a manual selection of a color by a user. Kohler teaches almost all of the elements of claim 1. Kohler teaches, *inter alia*, sending the identity of the corresponding color over a network to a website (column 4, lines 61-65 of Kohler). As stated by Examiner in the previous office action, mailed 04 August 2006, by sending the output image over a network to a website (column 4, lines 61-65 of Kohler), the determined identity of the corresponding color (figure 6(S603-S610); column 10, lines 1-7; and column 12, lines 58-64 of Kohler) is also sent over a network to a website since said identity is clearly needed to reproduce the color (column 5, lines 29-36 and column 13, lines 5-8 of Kohler). The only element of claim 1 not taught by Kohler is sending the identity of the corresponding color to a shopping website for purchasing a product having the corresponding color. For this teaching, Examiner relies upon Knight, particularly column 10, lines 13-20 of Knight, which clearly shows sending the identity of the corresponding color to a shopping website for purchasing a product having the corresponding color. While Applicant states Knight performs said sending *via* the manual clicking of a user, Applicant ignores the combination of references that has been clearly laid out in the rejection. In Kohler, the sending image data over a network to a website (column 4, lines 61-65 of Kohler) is performed automatically, especially given that the operations of the system taught by Kohler are performed through the use of software (see, e.g., figures 2 of Kohler). Thus, *by combination*, the sending

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performed by Knight would also be performed automatically since Knight is relied upon to suggest modifications of the Kohler system.

Additionally, Examiner notes that the language of claim 1 in no way requires that any of the steps be performed automatically. All of the recited steps can be performed by a user at a personal computer with an internet connection and standard software. Applicant is respectfully reminded that it is improper to import claim limitations from the specification [see MPEP §2111.01(II)] and that, although claims are interpreted in light of the specification, limitations from the specification are not read into the claims [*In re Van Geuns*, 988 F.2d 1181, 26 USPQ 2d 1057 (Fed. Cir. 1993)].

Thus, all the elements of claim 1 are taught by the two references. Furthermore, both Kohler and Knight are analogous art since both are concerned with digital color image data processing, transmission and storage. While Kohler does not provide a suggestion for sending the identity of the corresponding color to a shopping website for purchasing a product having the corresponding color, which is not surprising given that such teaching is not found in Kohler, Knight does provide a clear motivation to combine the teachings of Knight with Kohler and thus obtain the combined system. Said motivation specifically is to aid the purchase of particular products by allowing a buyer to select and choose between various possible colors in a set of products (column 3, lines 7-12 of Knight). The gamut mapping in Kohler is thus performed in the context of internet e-commerce. While Kohler alone was not originally described in terms of e-commerce, by combination with Knight, the system of Kohler can be applied to e-commerce. The motivation set forth in Knight would have readily been recognized as desirable by one of ordinary skill in the art at the time of the invention since a purchaser would naturally want to be able to purchase a physical product, such as clothing, which has the same color that the purchaser sees on the monitor while shopping over the internet. Since all the limitations of claim 1 are taught by the combination of Kohler and Knight, both Kohler and Knight have been shown to be analogous art, and a clear motivation to combine the references is given in Knight, no impermissible hindsight reasoning has been used. Applicant is respectfully reminded that any judgment on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning, but so long as it takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper [*In re McLaughlin*, 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971)].

Finally, with respect to Applicant's arguments concerning the identity of the corresponding color, the identity of the corresponding color taught by Knight would naturally be the identity of the corresponding color determined in the determining step, since said identity and said color are the only

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relevant identity and color being taught by Kohler. Applicant is again ignoring the clearly set forth combination by suggesting that said identity of said corresponding color could be *any* color. Such a characterization goes against the combination set forth in said previous office action. Examiner stated in said previous office action that “it would have been obvious to a person of ordinary skill in the art to specifically send the corresponding color taught by Kohler to a shopping website for purchasing a product having a corresponding color, as taught by Knight” [see last line of page 8 to page 9, line 4 of said previous office action] Note, it is the corresponding color *taught by Kohler* that that is sent according to the teachings of Knight. Thus, the identity of the color that is sent is the same as the identity of the color that is determined.

**Regarding Applicant’s response to rejection of claims 14 & 28 under 35 USC §103(a):** In Ringland (USPN 5,751,829), a plurality of colors are matched to a specifically marked color. The color from the plurality of colors which matches the desired marked sample color is the dominant color, since said color is the one that is to be used based on the matching of said color with the marked sample color. Examiner also notes that the term “dominant color” is very broad terminology. Applicant is respectfully reminded that, in the course of patent examination, claims are given their broadest reasonable interpretation consistent with the specification [see MPEP §2111]. While Examiner may have interpreted “dominant color” in a manner that is not precisely the same as that in the present specification, Examiner’s interpretation is still a reasonable one.

Finally, the manner in which Kohler and Ringland are combined, along with a clear motivation to combine the references, is set forth on page 17, line 25 to page 18, line 6 of said previous office action. Applicant has merely suggested that the two references are not combinable since the two reference have different disclosures. Applicant has not substantively addressed the motivation clearly set forth in the office action, and has thus not refuted the *prima facie* case of obviousness presented by Examiner. Since Examiner has provided a *prima facie* case of obviousness, the burden is upon Applicant to refute what Examiner has stated in the office action.

**Regarding Applicant’s response to rejection of claim 26 under 35 USC §103(a):** Kohler merely does not teach some of the specific limitations in claim 26 with regard to texture and de-texturizing. This is not some tremendous lack of disclosure, as Applicant seems to allege. Kohler teaches with respect to colors. Texture is simply an additional characteristic of image data that Lee (USPN 5,528,703) teaches, and Examiner relies upon in the obviousness rejection of claim 26. As set forth in the last paragraph of page 25 of said previous office action, “Lee discloses that an object has texture (figure 2B and column 6, lines 58-60 of Lee); and processing said color image data signal to remove the

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influence of said texture from the color image data signal (figure 3(306) and column 6, lines 60-61 of Lee).” One of ordinary skill in the art at the time of the invention would readily have seen that texture is simply another aspect of image data. The removal of texture from digital color image data would have been seen as desirable since object texture detracts from the ability to determine the size, shape and location of objects of interest (column 6, lines 54-60 of Lee). The de-texturizing taught by Lee, when combined with the teachings of Kohler, thus provides for a system with improved and expanded functionality. Since clear motivation to combine the references is set forth in the Lee reference itself, and the teachings of the individual elements come solely from the combination of Kohler and Lee, Examiner has not relied upon Applicant’s disclosure in demonstrating the obviousness of claim 26.

*Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claims 26-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.** The “program code” recited in claim 26 is not necessarily computer program code. Further, said program code is not necessarily encoded, embodied, or stored on the recited computer-readable medium, but merely “contained” on said computer readable medium. Computer program code needs to be encoded, embodied or stored on a computer readable medium in order to permit the computer program code’s functionality to be realized.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. **Claims 1, 3-4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Knight (US Patent 6,344,853 B1).**

**Regarding claim 1:** Kohler discloses scanning an object (column 4, lines 50-52 of Kohler) having a color to be matched (column 5, lines 22-25 and lines 32-36 of Kohler) to produce a color image data signal representative of said object (column 5, lines 29-36 of Kohler); mapping said color image data signal to the defined color space to ascertain the corresponding color (column 9, line 63 to column 10, line 1 of Kohler); determining the identity of the corresponding color (figure 6(S603-S610); column 10, lines 1-7; and column 12, lines 58-64 of Kohler); and sending the identity of the corresponding color over a network to a website (column 4, lines 61-65 of Kohler). By sending the output image over a network to a website (column 4, lines 61-65 of Kohler), the determined identity of the corresponding color (figure 6 (S603-S610); column 10, lines 1-7; and column 12, lines 58-64 of Kohler) is also sent over a network to a website since said identity is clearly needed to reproduce the color (column 5, lines 29-36 and column 13, lines 5-8 of Kohler).

Kohler does not disclose expressly that said sending the identity of the corresponding color to the website comprises sending the identity of the corresponding color to a shopping website for purchasing a product having the corresponding color.

Knight discloses sending the identity of the corresponding color to a shopping website for purchasing a product having a corresponding color (column 10, lines 13-20 of Knight).

Kohler and Knight are combinable because they are from the same field of endeavor, namely digital color image data processing, transmission and storage. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to specifically send the corresponding color taught by Kohler to a shopping website for purchasing a product having a corresponding color, as taught by Knight. The motivation for doing so would have been to aid the purchase of particular products by allowing a buyer to select and choose between various possible colors in a set of products (column 3, lines 7-12 of Knight). Therefore, it would have been obvious to combine Knight with Kohler to obtain the invention as specified in claim 1.

**Regarding claim 3:** Kohler discloses that the identity of the corresponding color comprises a reference number (P') (column 12, lines 58-64 of Kohler), and wherein sending the identity of the corresponding color comprises sending the reference number associated with said corresponding color (column 4, lines 61-65 and column 13, lines 5-8 of Kohler). The printing is performed on the basis of the reference number P' (column 13, lines 5-8 of Kohler), which must therefore be sent over the network to the website to be printed (column 4, lines 61-65 of Kohler).

**Regarding claim 4:** Kohler discloses using said reference number to match a color with the color to be matched (column 13, lines 5-7 of Kohler).

**Regarding claim 11:** Kohler discloses that mapping said color image data signal to the defined color space to ascertain the corresponding color comprises using a color look-up table (figures 5A-5B and column 8, lines 50-59 of Kohler).

6. **Claims 5-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Knight (US Patent 6,344,853 B1) and Ringland (US Patent 5,751,829).**

**Regarding claim 5:** Kohler discloses that said reference number (P') is output (column 4, lines 61-65 and column 13, lines 5-8 of Kohler).

Kohler in view of Knight does not disclose expressly displaying said reference number.

Ringland discloses displaying said reference number (figure 6(614) and column 19, lines 12-15 of Ringland).

Kohler in view of Knight is combinable with Ringland because they are from the same field of endeavor, namely color image data processing and matching. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to specifically display the reference number, as taught by Ringland. The motivation for doing so would have been to allow a user to search for a particular desired color based on the reference number (column 17, lines 7-13 of Ringland). Therefore, it would have been obvious to combine Ringland with Kohler in view of Knight to obtain the invention as specified in claim 5.

**Regarding claim 6:** Kohler in view of Knight does not disclose expressly selecting a color region on said object, the color region containing said color to be matched.

Ringland discloses selecting a color region on said object, the color region containing said color to be matched (column 19, lines 38-42 and lines 56-61 of Ringland).

Kohler in view of Knight is combinable with Ringland because they are from the same field of endeavor, namely color image data processing and matching. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to specifically select a color region of said object containing the color to be matched, as taught by Ringland. The motivation for doing so would have been to allow a user to concentrate on matching particularly desired sections of an object to the particular degree desired (column 19, lines 56-63 of Ringland). Therefore, it would have been obvious to combine Ringland with Kohler in view of Knight to obtain the invention as specified in claim 6.



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**Regarding claim 7:** Kohler in view of Knight does not disclose expressly selecting a color region of said color image data signal, the color region containing said color to be matched.

Ringland discloses selecting a color region of said color image data signal, the color region containing said color to be matched (column 19, lines 38-42 and lines 56-61 of Ringland).

Kohler in view of Knight is combinable with Ringland because they are from the same field of endeavor, namely color image data processing and matching. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to specifically select a color region of said color image data signal containing the color to be matched, as taught by Ringland. The motivation for doing so would have been to allow a user to concentrate on matching particularly desired sections of an object to the particular degree desired (column 19, lines 56-63 of Ringland). Therefore, it would have been obvious to combine Ringland with Kohler in view of Knight to obtain the invention as specified in claim 7.

**Regarding claim 8:** Kohler in view of Knight does not disclose expressly that said object comprises a plurality of colors, and further comprising selecting one of said plurality of colors as said color to be matched.

Ringland discloses a plurality of colors and selecting one of said plurality of colors as said color to be matched (column 17, lines 1-3 and lines 15-17 of Ringland).

Kohler in view of Knight is combinable with Ringland because they are from the same field of endeavor, namely image data processing and color matching. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to select a color to be matched from a plurality of colors, as taught by Ringland. The motivation for doing so would have been to allow a user to match the color of a particular item desired by a user as close as possible to the set of available colors provided by the vendor (column 17, lines 19-23 of Ringland). Therefore, it would have been obvious to combine Ringland with Kohler in view of Knight to obtain the invention as specified in claim 8.

**Regarding claim 10:** Kohler in view of Knight does not disclose expressly that said defined color space comprises the Pantone Matching System.

Ringland discloses that said defined color space comprises the Pantone Matching System (column 17, lines 19-22 of Ringland).

Kohler in view of Knight is combinable with Ringland because they are from the same field of endeavor, namely image data processing and color matching. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to specifically use the Pantone Matching System, as taught by Ringland. The suggestion for doing so would have been that any of a variety of possible color

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gamuts can be used in the system of Kohler (column 8, lines 17-21 and lines 28-32 of Kohler), and the Pantone Matching System is typical and well-known color gamut. Therefore, it would have been obvious to combine Ringland with Kohler in view of Knight to obtain the invention as specified in claim 10.

**7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Knight (US Patent 6,344,853 B1) and Lee (US Patent 5,528,703).**

**Regarding claim 9:** Kohler in view of Knight does not disclose expressly that said object has texture; and processing said color image data signal to remove the influence of said texture from the color image data signal.

Lee discloses that an object has texture (figure 2B and column 6, lines 58-60 of Lee); and processing said color image data signal to remove the influence of said texture from the color image data signal (figure 3(306) and column 6, lines 60-61 of Lee).

Kohler in view of Knight combinable with Lee because they are from the same field of endeavor, namely digital image data processing for different types of objects. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to remove any texture of an object from the color image data signal, as taught by Lee. The motivation for doing so would have been that object texture detracts from the ability to determine the size, shape and location of objects of interest (column 6, lines 54-60 of Lee). Therefore, it would have been obvious to combine Lee with Kohler in view of Knight to obtain the invention as specified in claim 9.

**8. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Knight (US Patent 6,344,853 B1) and Bar (US Patent 5,506,946).**

**Regarding claim 12:** Kohler discloses that said color image data comprises a plurality of pixels (column 4, lines 51-53 of Kohler). If an entire document is scanned in, then there are a plurality of pixels.

Kohler in view of Knight does not disclose expressly that each pixel has a red tristimulus value, a green tristimulus value, and a blue tristimulus value associated therewith, and wherein mapping said color image data signal to the defined color space to ascertain the corresponding color further comprises computing an average red tristimulus value, an average green tristimulus value, and an average blue tristimulus value from the red, green and blue tristimulus values of one or more of said plurality of pixels; and inputting the average red, green and blue tristimulus values into said color look-up table to obtain the corresponding color.

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Bar discloses that each pixel has a red tristimulus value, a green tristimulus value, and a blue tristimulus value associated therewith (column 6, lines 3-9 of Bar); and computing an average red tristimulus value, an average green tristimulus value, and an average blue tristimulus value from the red, green and blue tristimulus values of one or more of said plurality of pixels (column 6, lines 7-9 and column 10, lines 52-56 of Bar).

Kohler in view of Knight is combinable with Bar because they are from the same field of endeavor, namely image data and color processing. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to compute the average RGB values for the color region, as taught by Bar, and thus use said average RGB values as the input to the look-up tables taught by Kohler. The motivation for doing so would have been that the modification of the color occurs for the entire region based on the target color (column 5, lines 28-35 of Bar). Furthermore, the system of Kohler can be implemented using a wide variety of different color spaces (column 6, lines 28-31 of Kohler). Therefore, it would have been obvious to combine Bar with Kohler in view of Knight to obtain the invention as specified in claim 12.

**Regarding claim 13:** Kohler discloses that said color image data comprises a plurality of pixels (column 4, lines 51-53 of Kohler). If an entire document is scanned in, then there are a plurality of pixels.

Kohler further discloses that mapping said color image data signal to the defined color space to ascertain the corresponding color further comprises inputting the tristimulus values (H,L,C) of one or more of said plurality of pixels into said color look-up table to obtain one or more reference numbers (figures 5A-5B and column 8, lines 50-59 of Kohler).

Kohler in view of Knight does not disclose expressly that each pixel has a red tristimulus value, a green tristimulus value, and a blue tristimulus value associated therewith; that said input tristimulus values are specifically red tristimulus values, green tristimulus values, and blue tristimulus values; and computing an average reference number from said one or more reference numbers, the average reference number identifying said corresponding color.

Bar discloses computing the average colorimetric values for a specified color image data signal region (column 10, lines 52-56 of Bar).

Kohler in view of Knight is combinable with Bar because they are from the same field of endeavor, namely image data and color processing. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to compute the average colorimetric values for the color region, as taught by Bar, said average values being the reference number values (P') taught by Kohler. Since said reference number values are directly mapped to the color values (column 12, lines 50-64 of

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Kohler), computing said average colorimetric values and then computing the mapping of said colorimetric values will result in the computation of said average reference number. Further, said average reference number would therefore identify said corresponding color. The motivation for doing so would have been that the modification of the color occurs for the entire region based on the target color (column 5, lines 28-35 of Bar). Therefore, it would have been obvious to combine Bar with Kohler in view of Knight to obtain the invention as specified in claim 13.

**9. Claims 14, 19-20 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Ringland (US Patent 5,751,829).**

**Regarding claim 14:** Kohler discloses a system (figure 1 and figure 2 of Kohler) comprising scanning apparatus (figure 1(7) of Kohler), said scanning apparatus to scan an object having the color to be matched (column 5, lines 22-25 and lines 32-36 of Kohler), said scanner apparatus to produce a color image data signal representative of said object (column 5, lines 29-36 of Kohler); and a computer (figure 1(2) of Kohler) operatively associated with said scanner apparatus (see figure 1 of Kohler), said computer to: determine a specific color from a plurality of colors (column 10, lines 7-13 of Kohler); map a portion of said color image data signal corresponding to the specific color to the defined color space to ascertain an identity (P') of the corresponding color (column 9, line 63 to column 10, line 1 of Kohler); and output the identity of the corresponding color (column 12, lines 58-64 of Kohler).

Kohler does not disclose expressly that said computer, in response to user selection, selects a color region of the color image data signal representative of said object; determines a dominant color from a plurality of colors in the selected color region; and presents the identity of the corresponding color to a user; and that said mapped portion of said color image data signal corresponds to said dominant color.

Ringland discloses, in response to a user selection, selecting a color region of the color image data signal representative of said object (column 19, lines 38-42 of Ringland); determining a dominant color from a plurality of colors in the selected color region (column 19, lines 38-41 and lines 56-61 of Ringland); mapping a portion of said color image data signal corresponding to the dominant color (column 19, lines 38-42 of Ringland) to the defined color space to ascertain an identity of the corresponding color (column 19, lines 47-51 of Ringland); and presenting the identity of the corresponding color to a user (column 20, lines 9-14 of Ringland).

Kohler and Ringland are combinable because they are from the same field of endeavor, namely image data processing and color matching. At the time of the invention, it would have been obvious to a

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person of ordinary skill in the art to allow a user to select a region from which a dominant color is determined and matched and then the identity of the corresponding matching color from the defined color space presented to the user, as taught by Ringland. The motivation for doing so would have been to allow the user to properly match a desired color with an available color palette (column 17, lines 18-23 of Ringland). Therefore, it would have been obvious to combine Ringland with Kohler to obtain the invention as specified in claim 14.

**Regarding claim 19:** Kohler discloses at least one computer readable storage medium operatively associated with said computer (column 8, lines 50-59 of Kohler); and a color look-up table stored on the at least one computer readable storage device, said computer using the color look-up table when mapping said portion of the color image data signal to the defined color space to ascertain the identity of the corresponding color (figures 5A-5B and column 8, lines 50-59 of Kohler).

**Regarding claim 20:** Kohler does not disclose expressly that said defined color space comprises the Pantone Matching System.

Ringland discloses that said defined color space comprises the Pantone Matching System (column 17, lines 19-22 of Ringland).

Kohler and Ringland are combinable because they are from the same field of endeavor, namely image data processing and color matching. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to specifically use the Pantone Matching System, as taught by Ringland. The suggestion for doing so would have been that any of a variety of possible color gamuts can be used in the system of Kohler (column 8, lines 17-21 and lines 28-32 of Kohler), and the Pantone Matching System is typical and well-known color gamut. Therefore, it would have been obvious to combine Ringland with Kohler to obtain the invention specified in claim 20.

**Regarding claim 28:** Kohler discloses a system (figure 1 and figure 2 of Kohler) comprising a storage device (column 4, lines 40-46 of Kohler) to store information representing a defined color space (column 5, lines 29-36 of Kohler); and a processor (figure 1(2) of Kohler) to receive color image data representing an object scanned by a scanner (column 4, lines 50-52 of Kohler); map a portion of the color image data to a corresponding color in the defined color space (column 9, line 63 to column 10, line 1 of Kohler) to ascertain an identity of a corresponding color (figure 6(S603-S610); column 10, lines 1-7; and column 12, lines 58-64 of Kohler); and communicate the identity of the corresponding color to a website (column 4, lines 61-65 of Kohler). By sending the output image over a network to a website (column 4, lines 61-65 of Kohler), the determined identity of the corresponding color (figure 6(S603-S610); column 10, lines 1-7; and column 12, lines 58-64 of Kohler) is also sent over a network to a website since said

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identity is clearly needed to reproduce the color (column 5, lines 29-36 and column 13, lines 5-8 of Kohler).

Kohler does not disclose expressly that said processor, in response to user selection, selects a color region of the color image data; determines a dominant color from a plurality of colors in the selected color region; and that said mapped portion of said color image data corresponds to said dominant color.

Ringland discloses, in response to a user selection, selecting a color region of the color image data (column 19, lines 38-42 of Ringland); determining a dominant color from a plurality of colors in the selected color region (column 19, lines 38-41 and lines 56-61 of Ringland); and mapping a portion of said color image data corresponding to the dominant color (column 19, lines 38-42 of Ringland) to the defined color space to ascertain an identity of the corresponding color (column 19, lines 47-51 of Ringland).

Kohler and Ringland are combinable because they are from the same field of endeavor, namely image data processing and color matching. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to allow a user to select a region from which a dominant color is determined and matched and then the identity of the corresponding matching color from the defined color space presented to the user, as taught by Ringland. The motivation for doing so would have been to allow the user to properly match a desired color with an available color palette (column 17, lines 18-23 of Ringland). Therefore, it would have been obvious to combine Ringland with Kohler to obtain the invention as specified in claim 28.

**10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Ringland (US Patent 5,751,829) and Lee (US Patent 5,528,703).**

**Regarding claim 18:** Kohler discloses at least one computer readable storage device operatively associated with said computer (column 4, lines 40-46 of Kohler); and that computer readable program code is stored on said at least one computer readable storage device (column 4, lines 40-46 of Kohler).

Kohler in view of Ringland does not disclose expressly that said object has a texture; and that said computer readable program code is for removing the influence of the texture from said color image data signal.

Lee discloses that an object has texture (figure 2B and column 6, lines 58-60 of Lee); and processing said color image data signal to remove the influence of said texture from the color image data signal (figure 3(306) and column 6, lines 60-61 of Lee).

Kohler in view of Ringland is combinable with Lee because they are from the same field of endeavor, namely digital image data processing for different types of objects. At the time of the

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invention, it would have been obvious to a person of ordinary skill in the art to remove any texture of an object from the color image data signal, as taught by Lee, using computer read-able program code, as taught by Kohler. The motivation for doing so would have been that object texture detracts from the ability to determine the size, shape and location of objects of interest (column 6, lines 54-60 of Lee). Therefore, it would have been obvious to combine Lee with Kohler in view of Ringland to obtain the invention as specified in claim 18.

**11. Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Knight (US Patent 6,344,853 B1), Ringland (US Patent 5,751,829) and Liu (US Patent 5,594,807).**

**Regarding claim 22:** Kohler discloses mapping said color image data signal to the defined color space to ascertain the corresponding color (column 9, line 63 to column 10, line 1 of Kohler).

Kohler in view of Knight and Ringland does not disclose expressly randomly selecting pixels in the selected color region; and mapping a portion of the color image data signal corresponding to the randomly selected pixels to the defined color space.

Liu discloses randomly selecting pixels in a selected color region (column 20, lines 11-16 of Liu).

Kohler in view of Knight and Ringland is combinable with Liu because they are from the same field of endeavor, namely digital color image data processing. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to randomly select pixel from a color image, as taught by Liu. Thus, it will be the portion of the color image data signal corresponding to the randomly selected pixels taught by Liu that is mapped to the defined color space, as taught by Kohler. The motivation for doing so would have been to reduce the computational requirements for automatically finding an appropriate reference pixel for the image area (column 20, lines 18-23 of Liu). Computational optimization of this sort is a common reason to use Monte-Carlo randomization in computations. Therefore, it would have been obvious to combine Liu with Kohler in view of Knight and Ringland to obtain the invention as specified in claim 22.

**Regarding claim 23:** Kohler in view of Knight does not disclose expressly determining a dominant color in the selected color region using histograms representing respective colors, wherein mapping said color image data signal to the defined color space comprises mapping a portion of the color image data signal corresponding to the determined dominant color to the defined color space.

Ringland discloses determining a dominant color from a plurality of colors in the selected color region (column 19, lines 38-41 and lines 56-61 of Ringland); and mapping a portion of said color image

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data signal corresponding to the determined dominant color (column 19, lines 38-42 of Ringland) to the defined color space (column 19, lines 47-51 of Ringland).

Kohler in view of Knight is combinable with Ringland because they are from the same field of endeavor, namely color image data processing and matching. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to determine a dominant color and map the portion of said color image data signal corresponding to the determined dominant color to the defined color space, as taught by Ringland. The motivation for doing so would have been to allow the user to properly match a desired color with an available color palette (column 17, lines 18-23 of Ringland). Therefore, it would have been obvious to combine Ringland with Kohler in view of Knight.

Kohler in view of Knight and Ringland does not disclose expressly that said dominant color is selected using histograms representing respective colors.

Liu discloses determining a dominant color using histograms representing respective colors (figure 4; figure 5; and column 9, lines 56-67 of Liu).

Kohler in view of Knight and Ringland is combinable with Liu because they are from the same field of endeavor, namely digital color image data processing. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use a histogram representing respective colors to select a dominant color, as taught by Liu. The motivation for doing so would have been to be able to determine to what extent particular pixel values in the color image data are true signal representations and to what extent each particular pixel value represents the image noise variations from "real" color and intensity values, thus providing a more genuine representation (column 9, lines 49-56 of Liu). Therefore, it would have been obvious to combine Liu with Kohler in view of Knight and Ringland to obtain the invention as specified in claim 23.

**12. Claims 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Ringland (US Patent 5,751,829) and Liu (US Patent 5,594,807).**

**Regarding claim 24:** Kohler in view of Ringland does not disclose expressly that the computer determines the dominant color in the selected color region using histograms representing the plurality of colors.

Liu discloses determining a dominant color using histograms representing respective colors (figure 4; figure 5; and column 9, lines 56-67 of Liu).

Kohler in view of Ringland is combinable with Liu because they are from the same field of endeavor, namely digital color image data processing. At the time of the invention, it would have been



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obvious to a person of ordinary skill in the art to use a histogram representing respective colors to select a dominant color, as taught by Liu. The motivation for doing so would have been to be able to determine to what extent particular pixel values in the color image data are true signal representations and to what extent each particular pixel value represents the image noise variations from "real" color and intensity values, thus providing a more genuine representation (column 9, lines 49-56 of Liu). Therefore, it would have been obvious to combine Liu with Kohler in view of Ringland to obtain the invention as specified in claim 24.

**13. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Lee (US Patent 5,528,703).**

**Regarding claim 26:** Kohler discloses an article (figure 1 and figure 2 of Kohler) comprising a storage device containing program code (column 4, lines 40-46 of Kohler) that when executed causes a system to receive color image data representing an object scanned by a scanner (column 4, lines 50-52 of Kohler); map the color image data to a corresponding color in a defined color space (column 9, line 63 to column 10, line 1 of Kohler); wherein the program code when executed causes the system to send an identity of the corresponding color over a network to a web-site (column 4, lines 61-65 of Kohler). By sending the output image over a network to a website (column 4, lines 61-65 of Kohler), the determined identity of the corresponding color (figure 6(S603-S610); column 10, lines 1-7; and column 12, lines 58-64 of Kohler) is also sent over a network to a website since said identity is clearly needed to reproduce the color (column 5, lines 29-36 and column 13, lines 5-8 of Kohler).

Kohler does not disclose expressly that said object has texture; processing the color image data to remove influence of the texture, the processing producing a detexturized color image data; and that the mapped color image data is detexturized color image data.

Lee discloses that an object has texture (figure 2B and column 6, lines 58-60 of Lee); and processing the color image data to remove the influence of said texture, the processing producing detexturized color image data (figure 3(306) and column 6, lines 60-61 of Lee).

Kohler and Lee are combinable because they are from the same field of endeavor, namely digital image data processing for different types of objects. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to remove any texture of an object from the color image data signal, as taught by Lee. Thus, the mapped color image data would then be detexturized color image data. The motivation for doing so would have been that object texture detracts from the ability to

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determine the size, shape and location of objects of interest (column 6, lines 54-60 of Lee). Therefore, it would have been obvious to combine Lee with Kohler to obtain the invention as specified in claim 26.

**14. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Lee (US Patent 5,528,703) and Knight (US Patent 6,344,853 B1).**

**Regarding claim 27:** Kohler in view of Lee does not disclose expressly that sending the identity of the corresponding color to the website comprises sending the identity of the corresponding color to a shopping website for purchasing a product having the corresponding color.

Knight discloses that sending the identity of the corresponding color to the website (figure 3E (154) and column 10, lines 13-18 of Knight) comprises sending the identity of the corresponding color to a shopping website for purchasing a product having a corresponding color (column 10, lines 13-20 of Knight).

Kohler in view of Lee is combinable with Knight because they are from the same field of endeavor, namely digital color image data processing, transmission and storage. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to specifically send the corresponding color taught by Kohler to a shopping website for purchasing a product having a corresponding color, as taught by Knight. The motivation for doing so would have been to aid the purchase of particular products by allowing a buyer to select and choose between various possible colors in a set of products (column 3, lines 7-12 of Knight). Therefore, it would have been obvious to combine Knight with Kohler in view of Lee to obtain the invention as specified in claim 27.

**15. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Ringland (US Patent 5,751,829) and Knight (US Patent 6,344,853 B1).**

**Regarding claim 29:** Kohler in view of Ringland does not disclose expressly that sending the identity of the corresponding color to the website comprises sending the identity of the corresponding color to a shopping website for purchasing a product having the corresponding color.

Knight discloses that sending the identity of the corresponding color to the website (figure 3E (154) and column 10, lines 13-18 of Knight) comprises sending the identity of the corresponding color to a shopping website for purchasing a product having a corresponding color (column 10, lines 13-20 of Knight).

Kohler in view of Ringland is combinable with Knight because they are from the same field of endeavor, namely digital color image data processing, transmission and storage. At the time of the

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invention, it would have been obvious to a person of ordinary skill in the art to specifically send the corresponding color taught by Kohler to a shopping website for purchasing a product having a corresponding color, as taught by Knight. The motivation for doing so would have been to aid the purchase of particular products by allowing a buyer to select and choose between various possible colors in a set of products (column 3, lines 7-12 of Knight). Therefore, it would have been obvious to combine Knight with Kohler in view of Ringland to obtain the invention as specified in claim 29.

**16. Claim 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 6,618,499 B1) in view of Ringland (US Patent 5,751,829) and Liu (US Patent 5,594,807).**

**Regarding claim 32:** Kohler does not disclose expressly determining a dominant color in the selected color region using histograms representing respective colors, wherein mapping said color image data signal to the defined color space comprises mapping a portion of the color image data signal corresponding to the determined dominant color to the defined color space.

Ringland discloses determining a dominant color from a plurality of colors in the selected color region (column 19, lines 38-41 and lines 56-61 of Ringland); and mapping a portion of said color image data signal corresponding to the determined dominant color (column 19, lines 38-42 of Ringland) to the defined color space (column 19, lines 47-51 of Ringland).

Kohler and Ringland are combinable because they are from the same field of endeavor, namely color image data processing and matching. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to determine a dominant color and map the portion of said color image data signal corresponding to the determined dominant color to the defined color space, as taught by Ringland. The motivation for doing so would have been to allow the user to properly match a desired color with an available color palette (column 17, lines 18-23 of Ringland). Therefore, it would have been obvious to combine Ringland with Kohler.

Kohler in view of Ringland does not disclose expressly that said dominant color is selected using histograms representing respective colors.

Liu discloses determining a dominant color using histograms representing respective colors (figure 4; figure 5; and column 9, lines 56-67 of Liu).

Kohler in view of Ringland is combinable with Liu because they are from the same field of endeavor, namely digital color image data processing. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use a histogram representing respective colors to select a dominant color, as taught by Liu. The motivation for doing so would have been to be able to determine to

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what extent particular pixel values in the color image data are true signal representations and to what extent each particular pixel value represents the image noise variations from "real" color and intensity values, thus providing a more genuine representation (column 9, lines 49-56 of Liu). Therefore, it would have been obvious to combine Liu with Kohler in view of Ringland to obtain the invention as specified in claim 32.

### *Conclusion*


17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



29 January 2007

James A. Thompson  
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